



[Billing code: 6750-01-S]  
**FEDERAL TRADE COMMISSION**

**Agency Information Collection Activities;  
Proposed Collection; Comment Request; Extension**

**AGENCY:** Federal Trade Commission (“FTC” or “Commission”).

**ACTION:** Notice.

**SUMMARY:** The FTC intends to ask the Office of Management and Budget (“OMB”) to extend through November 30, 2015, the current Paperwork Reduction Act (“PRA”) clearance for the FTC’s shared enforcement with the Consumer Financial Protection Bureau (“CFPB”) of the information collection requirements in subpart N of Regulation V. That clearance expires on November 30, 2012.

**DATES:** Comments must be filed by [insert date 60 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Subpart N of Regulation V, PRA Comment, P125403,” on your comment and file your comment online at

<https://ftcpublic.commentworks.com/ftc/SubpartNRegulationVPRA> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Tiffany George, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, (202) 326-3040, 600 Pennsylvania Ave., NW, Washington, D.C. 20580.

**SUPPLEMENTARY INFORMATION:** Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>1</sup> transferred rulemaking authority for several consumer financial protection laws to the CFPB. Accordingly, the Commission rescinded several rules under the Fair Credit Reporting Act, including the FTC’s Free Annual File Disclosures Rule that appeared under 16 CFR Parts 610 and 698.

On December 21, 2011, the CFPB issued an interim final rule, Regulation V (Fair Credit Reporting), 12 CFR Part 1022, which incorporated within its subpart N (Duties of Consumer Reporting Agencies Regarding Disclosures to Consumers), with only minor changes (non-substantive, technical, formatting, and stylistic), the former Free Annual File Disclosures Rule, and in Appendix L to Part 1022, the associated model notice.<sup>2</sup> Subpart N of Regulation V continues the disclosure requirements that had existed under the Free Annual File Disclosures Rule. Because the FTC shares enforcement authority with the CFPB for subpart N, the two agencies have split between them the related estimate of PRA burden for firms under their co-enforcement jurisdiction.

Subpart N requires nationwide consumer reporting agencies and nationwide consumer specialty reporting agencies to provide to consumers, upon request, one free file disclosure within any 12-month period. Generally, it requires the nationwide consumer reporting agencies, as defined in Section 603(p) of the FCRA, 15 U.S.C. 1681a(p), to create and operate a centralized source that provides consumers with the ability to request their free annual file disclosures from each of the nationwide consumer reporting agencies through a centralized Internet website, toll-free telephone number, and postal address. Subpart N also requires the

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<sup>1</sup> Pub. L. 111-203, 124 Stat. 1376 (2010). Title X comprises sections 1001 – 1100H (collectively, the “Consumer Financial Protection Act of 2010”).

<sup>2</sup> 76 FR 79830, 79309 (Dec. 21, 2011).

nationwide consumer reporting agencies to establish a standardized form for Internet and mail requests for annual file disclosures, and provides a model standardized form that may be used to comply with that requirement. It additionally requires nationwide specialty consumer reporting agencies, as defined in Section 603(w) of the FCRA, 15 U.S.C. 1681a(w), to establish a streamlined process for consumers to request annual file disclosures. This streamlined process must include a toll-free telephone number for consumers to make such requests.

Under the PRA, 44 U.S.C. 3501-3521, Federal agencies must get OMB approval for each collection of information they conduct or sponsor. “Collection of information” includes agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The FTC is seeking clearance for its assumed share of the estimated PRA burden regarding the disclosure requirements under subpart N of Regulation V.

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) how to improve the quality, utility, and clarity of the disclosure requirements; and (4) how to minimize the burden of providing the required information to consumers. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

**Burden statement:**

On February 3, 2012, OMB cleared the FTC’s adjusting entries to split PRA burden with the CFPB regarding the formerly designated Free Annual File Disclosures Rule. The FTC’s

currently cleared burden totals are 155,512 hours and \$4,195,000 in non-labor/capital costs.<sup>3</sup> Associated labor costs are \$2,595,710. These figures represent a halving of the FTC's prior burden estimates, including the incremental effects of the FTC's 2010 final amendments<sup>4</sup> to the Free Annual File Disclosures Rule.

The FTC's updated estimates, excluding the halving (to be shown at the conclusion of this analysis), are as follows:

A. Requests Per Year From Consumers for Free Annual File Disclosures

The Consumer Data Industry Association has stated that between December 2004 and December 2006, the nationwide consumer reporting agencies provided over 52 million free annual file disclosures through the centralized Internet website, toll-free telephone number, and postal address required to be established by the FACT Act and the Rule,<sup>5</sup> an annual rate of about 26 million requests per year. Because the prospective clearance renewal would run through November 30, 2015, by that time, nine years will have passed since the Commission received the data informing its past estimate of the yearly volume of requests for free credit reports. We expect that the number of requests for free annual credit reports has increased since 2006, both because of increases in the population and because consumers will have become more aware that they are entitled to a free annual report. As a proxy, we will use an estimate of 30 million requests per year as a representative average year to estimate PRA burden for purposes of the instant analysis.

The Commission, however, seeks more recent estimates of the number of requests

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<sup>3</sup> OMB Control No. 3084-0128.

<sup>4</sup> 77 FR 9726 (Mar. 3, 2010). These amendments have been incorporated into Regulation V subpart N. As explained below, however, there is no longer any incremental PRA burden presented by those amendments.

<sup>5</sup> Letter from Stuart K. Pratt, President & CEO, Consumer Data Industry Association, to Rep. Barney Frank, Committee on Financial Services, U.S. House of Representatives (Dec. 1, 2006).

consumers are making for free annual credit reports. In addition to data on the number of requests, data on how the number of requests has changed over time, and how these requests are being received – by Internet, phone, or by mail – would be most helpful.

#### B. Annual File Disclosures Provided Through the Internet

Both nationwide and nationwide specialty consumer reporting agencies will likely handle the overwhelming majority of consumer requests through Internet websites. The annual file disclosure requests processed through the Internet will not impose any hours burden per request on the nationwide and nationwide specialty consumer reporting agencies, even though consumer reporting agencies periodically will be required to adjust the Internet capacity needed to handle the changing request volume. Consumer reporting agencies likely will make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Trained personnel will need to spend time negotiating and renegotiating such contracts. Commission staff estimates that negotiating such contracts will require a cumulative total of 8,320 hours and \$502,611 in setup and/or maintenance costs.<sup>6</sup> Such activity is treated as an annual burden of maintaining and adjusting the changing Internet capacity requirements.

#### C. Annual File Disclosures Requested Over the Telephone

Most of the telephone requests for annual file disclosures will also be handled in an automated fashion, without any additional personnel needed to process the requests. As with the Internet, consumer reporting agencies will require additional time and investment to increase and administer the automated telephone capacity for the expected increase in request volume. The

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<sup>6</sup> Based on the time necessary for similar activity in the federal government (including at the FTC), staff estimates that such contracting and administration will require approximately 4 full-time equivalent employees (“FTE”) for the web service contracts. Thus, staff estimates that administering the contract will require 4 FTE, which is 8,320 hours per year (4 FTE x 2,080 hours/year). The cost is based on the reported May 2011 Bureau of Labor Statistics (BLS) rate (\$60.41) for computer and information systems managers. See *National Occupational and Wages - May 2011*, Table 1, available at [http://www.bls.gov/news.release/archives/ocwage\\_03272012.pdf](http://www.bls.gov/news.release/archives/ocwage_03272012.pdf). Thus, the estimated setup and maintenance cost for an Internet system is \$502,611 per year (8,320 hours x \$60.41/hour).

nationwide and nationwide specialty consumer reporting agencies will likely make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Staff estimates that this will require a total of 6,240 hours at a cost of \$376,958 in setup and/or maintenance costs.<sup>7</sup> This activity also is treated as an annual recurring burden necessary to obtain, maintain, and adjust automated call center capacity.

#### D. Annual File Disclosures Requiring Processing by Mail

Based on their knowledge of the industry, staff believes that no more than 1% of consumers (1% x 30 million, or 300,000) will request an annual file disclosure through U.S. postal service mail. Staff estimates that clerical personnel will require 10 minutes per request to handle these requests, thereby totaling 50,000 hours of time.  $[(300,000 \times 10 \text{ minutes})/60 \text{ minutes} = 50,000 \text{ hours}]$

In addition, whenever the requesting consumer cannot be identified using an automated method (a website or automated telephone service), it will be necessary to redirect that consumer to send identifying material along with the request by mail. Staff estimates that this will occur in about 5% of the new requests (or 1,485,000<sup>8</sup>) that were originally placed over the Internet or telephone. Staff estimates that clerical personnel will require approximately 10 minutes per request to input and process those redirected requests for a cumulative total of 247,500 clerical hours.  $[(1,485,000 \times 10 \text{ minutes})/60 \text{ minutes} = 247,500 \text{ hours}]$

#### E. Instructions to Consumers

The Rule also requires that certain instructions be provided to consumers. *See*

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<sup>7</sup> Staff estimates that recurring contracting for automated telephone capacity will require approximately 3 FTE, a total of 6,240 hours (3 x 2,080 hours). Applying an hourly wage rate of \$60.41 based on May 2011 BLS data for computer and information systems managers, the estimate for setup and maintenance cost is \$376,958 (6,240 x \$60.41) per year. *See* [http://www.bls.gov/news.release/archives/ocwage\\_03272012.pdf](http://www.bls.gov/news.release/archives/ocwage_03272012.pdf).

<sup>8</sup> This figure reflects 5 percent of all requests, net of the estimated 1 percent of all requests that might initially be made by mail. That is,  $.05 \times (30,000,000 - 300,000) = 1,485,000$ .

Rule sections 1022.136(b)(2)(iv)(A,B), 1022.137(a)(2)(iii)(A,B). Minimal associated time or cost is involved, however. Internet instructions to consumers are embedded in the centralized source website and do not require additional time or cost for the nationwide consumer reporting agencies. Similarly, for telephone requests, the automated phone systems provide the requisite instructions when consumers select certain options. Some consumers who request their credit reports by mail might additionally request printed instructions from the nationwide and nationwide specialty consumer reporting agencies. Staff estimates that there will be a total of 1,785,000 requests each year for free annual file disclosures by mail.<sup>9</sup> Based on their knowledge of the industry, staff estimates that, of the predicted 1,785,000 mail requests, 10% (or 178,500) will request instructions by mail. If printed instructions are sent to each of these consumers by mail, requiring 10 minutes of clerical time per consumer, this will total 29,750 hours. [(178,500 instructions x 10 minutes)/60 minutes per hour].

F. 2010 FTC Final Amendments<sup>10</sup>

There is no further incremental PRA burden tied to the 2010 amendments. Previously FTC staff had estimated that administrative amendments to former section 610.2 (designed to prevent interference with consumers' ability to obtain their free annual file disclosures through the centralized source) would impose no more than a minimal, one-time burden for the nationwide consumer reporting agency to reconfigure the centralized source and their own proprietary websites. Those amendments, however, became effective April 2, 2010, so the implementation should now be complete. Moreover, the other amendments, which were to former section 610.4, did not constitute a PRA "collection of information" as defined by OMB's

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<sup>9</sup> This figure includes both the estimated 1% of 30 million requests that will be made by mail each year (300,000), and the estimated 1,485,000 requests initially made over the Internet or telephone that will be redirected to the mail process (see *supra* note 8).

<sup>10</sup> As noted above, the 2010 FTC amendments have been incorporated into what is now Regulation V, subpart N.

regulations that implement the PRA. The section 610.4 amendment required that all advertisements for “free credit reports” contain certain prescribed disclosures tailored to the medium used. OMB excludes from the definition of “collection of information” the “public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public.” 5 CFR 1320.3(c)(2).

#### G. Labor Costs

Labor costs are derived by applying hourly cost figures to the burden hours described above. Accordingly, staff estimates that processing of requests for annual file disclosures and instructions will be performed by clerical personnel, which will require 327,250 hours at a cost of \$5,258,908. [(50,000 hours for handling initial mail request + 247,500 hours for handling requests redirected to mail + 29,750 hours for handling instructions mailed to consumers) x \$16.07 per hour.<sup>11</sup>

#### H. Capital/Non-Labor Costs

As in the previous PRA clearance analysis, FTC staff believes it is likely that consumer reporting agencies will use third-party contractors (instead of their own employees) to increase the capacity of their systems. Because of the way these contracts are typically established, these costs will likely be incurred on a continuing basis, and will be calculated based on the number of requests handled by the systems. Staff estimates that the total annual amount to be paid for services delivered under these contracts is \$12.22 million.<sup>12</sup>

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<sup>11</sup> See *National Occupational and Wages - May 2011*, Table 1, available at [http://www.bls.gov/news.release/archives/ocwage\\_03272012.pdf](http://www.bls.gov/news.release/archives/ocwage_03272012.pdf) (Office and administrative support workers, general).

<sup>12</sup> This consists of an estimated \$8.19 million for automated telephone cost (\$1.82 per request x 4.5 million requests) and an estimated \$4.03 million (\$0.16 per request x 25.2 million requests) for Internet web service cost. Per unit cost estimates are based on staff’s knowledge of the industry.



## I. Net Burden for FTC, After 50:50 Split

After halving the updated estimates to split the PRA burden with the CFPB regarding the formerly designated Free Annual File Disclosures Rule, the FTC's burden totals are 170,905 hours and \$6,111,000 in non-labor/capital costs. Associated labor costs are \$3,069,239.

**Request for Comment:** You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 60 days from FEDERAL REGISTER date of publication]. Write "Subpart N of Regulation V, PRA Comment, P125403" on your comment. Your comment – including your name and your state - will be placed on the public record of this proceeding, including to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtml>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential" as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c).<sup>13</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/SubpartNRegulationVPRA>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Subpart N of Regulation V, PRA Comment, P125403” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J) 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission website at [www.ftc.gov](http://www.ftc.gov) to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [insert date 60 days from FEDERAL REGISTER date of publication]. You can find more

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<sup>13</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Willard K. Tom  
General Counsel.

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